

Supporting Continuity of Teaching and Learning for Students with Disabilities During an Extended School Closure



The West Virginia Department of Education (WVDE) Office of Special Education & Student Support (OSESS) is dedicated to supporting our students, families and staff making this a top priority during the ordered school closure period, which seeks to diminish the spread of the Novel Coronavirus Disease 2019 (COVID-19). Our goal is to ensure students with disabilities receive educational services as closely to the manners prescribed within their Individualized Education Programs (IEPs). We recognize the challenges you face during this unexpected and unprecedented time.

This guidance document is designed to help county school districts provide special education services to students with disabilities (ages 3-21). We address the most frequently asked questions that have emerged during the State's ordered school closure. This guidance is not all inclusive. Some decisions must be made locally based on your county's unique infrastructure and available resources.

Free Appropriate Public Education (FAPE)

When a school closed due to the COVID-19 response efforts is providing educational services via distance education (offering curriculum, taking attendance and providing grades) to the general student population, the county must ensure that students with disabilities have equal access to the same opportunities, including the provision of a Free Appropriate Public Education (FAPE). In addition, counties must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student's Individualized Education Program (IEP) or Section 504 Plan.

Once school resumes, a student's IEP Team (or appropriate personnel under Section 504) must make an individual determination whether and to what extent compensatory services are required. Compensatory services must be consistent with applicable requirements including to recoup any skills lost during the closure within a reasonable timeframe.

Timelines

At this time, the U.S. Department of Education Office of Special Education Programs (OSEP) has not issued guidance regarding the waiver of federal timelines related to special education compliance. Only Congress can grant flexibility or waive relief from the Individuals with Disabilities Education Act (IDEA) requirements.

Initial Evaluation Timelines

West Virginia Policy 2419: *Regulations for the Education of Students with Exceptionalities* allows for the extension of the 80-day initial evaluation timelines when counties are closed due to circumstances resulting in a state of emergency determined by the Governor of West Virginia. The timeline will be extended in direct proportion to the duration of the state of emergency.

Re-Evaluation Timelines

The IDEA re-evaluation timeline is 3 years. For re-evaluations due during a school closing, teams should complete the re-evaluation as soon as possible upon return. Evaluations that do not require face-to-face assessments or observations may occur while schools are closed, so long as a student's parent or legal guardian consents.

For re-evaluations due while students are attending a virtual instructional setting, cases should be treated on an individual basis; however, every attempt should be made to complete the re-evaluation to the extent possible, given reasonable access to the student.

Schools should develop a plan to support maintaining timelines and clearly document any delay, the nature and extent of the delay, and the plan to move as quickly as possible to timely remedy the delay.

IEP Annual Reviews

The IDEA requires that the student's IEP be reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved, and to revise the IEP, as appropriate. Schools should be flexible in allowing parents to attend IEP Team meetings by alternative means of meeting participation requirements, such as video conferences and conference calls. These options must be clearly communicated to parents. All attempts to arrange meetings with parents should be documented, including providing the required meeting notice that complies with special education regulations.

Due Process Hearings and Mediations

To the extent practicable, counties should continue to meet any obligations relating to convening IEP Team meetings and complying with timelines for due process hearings and mediations. Schools may avail themselves of alternate means of meeting, including telephone or videoconference. All parties to due process hearings and mediations should take instruction from the hearing officer or mediator.

Effective Communication and Language Assistance

When school officials provide information to students, parents and the community about any aspect of coronavirus or actions the schools are taking in response to coronavirus, they generally need to provide meaningful access to such information to English learner students and adults with limited English proficiency. School officials also must ensure equally effective communications with persons with disabilities (such as persons who are deaf, deaf-blind or blind). Thus, the information and materials must be provided, as appropriate, in alternate formats to facilitate effective communication for individuals with disabilities.

Additional guidance related to the provision of special education and related services during school closings or virtual settings, issued by the U.S. Department of Education, can be found at <https://www2.ed.gov/policy/speced/guid/idea/memosdcitrs/qa-covid-19-03-12-2020.pdf>.

For further assistance, contact Susan Beck, Executive Director, Office of Special Education & Student Support at sbeck@k12.wv.us or visit the WVDE Coronavirus Webpage: <https://wvde.us/covid19/>.